

Page 1 of 2

EXECUTIVE SUMMARY - ENFORCEMENT MATTER

DOCKET NO.: 2007-1367-AIR-E **TCEQ ID:** RN100909373 **CASE NO.:** 34486

RESPONDENT NAME: TOTAL PETROCHEMICALS USA, INC.

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input checked="" type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: TOTAL PETROCHEMICALS BAYPORT, 12212 Port Drive, Pasadena, Harris County

TYPE OF OPERATION: Chemical manufacturing plant

SMALL BUSINESS: ☐ Yes ☒ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on January 22, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: Ms. Melissa Keller, SEP Coordinator, Enforcement Division, MC 219, (512) 239-1768

TCEQ Enforcement Coordinator: Ms. Rebecca Johnson, Enforcement Division, Enforcement Team 5, (713) 422-8931, MC R-12;

Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. Louis Meneghetti, Environmental Supervisor, TOTAL PETROCHEMICALS USA, INC., P.O. Box 5010, La Porte, Texas 77572-5010

Mr. Stan Beisert, Plant Manager, TOTAL PETROCHEMICALS USA, INC., P.O. Box 5010, La Porte, Texas 77572-5010

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input checked="" type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: August 7, 2007</p> <p>Date of NOV/NOE Relating to this Case: August 17, 2007(NOE)</p> <p>Background Facts: This was a routine records review.</p> <p>AIR</p> <p>Failure to prevent unauthorized emissions during a May 17, 2007 emissions event. Specifically, during the emissions event 5,748.12 pounds of unauthorized volatile organic compound emissions were released from the Bay 2 Flare over a period of five hours and 54 minutes. Since the emissions were avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met [Air Permit No. 5264, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b)].</p>	<p>Total Assessed: \$7,050</p> <p>Total Deferred: \$1,410 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$2,820</p> <p>Total Paid to General Revenue: \$2,820</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent has implemented the following corrective measures at the Plant:</p> <p>a. Completed reviews and updates of procedures on July 3, 2007 to ensure that proper operations practices are in place to minimize human interaction with the relay housing; and</p> <p>b. Completed installation of electro-mechanical relays less sensitive to mechanical vibration on July 9, 2007.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to implement and complete a Supplemental Environmental Project (SEP). (See SEP Attachment A)</p>

Additional ID No(s): HG4662F

Attachment A
Docket Number: 2007-1367-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: TOTAL PETROCHEMICALS USA, INC.

Payable Penalty Amount: Five Thousand Six Hundred Forty Dollars (\$5,640)

SEP Amount: Two Thousand Eight Hundred Twenty Dollars (\$2,820)

Type of SEP: Pre-approved

Third-Party Recipient: Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program

Location of SEP: Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*.

SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

TOTAL PETROCHEMICALS USA, INC.
Agreed Order – Attachment A

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

TOTAL PETROCHEMICALS USA, INC.
Agreed Order – Attachment A

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.



Penalty Calculation Worksheet (PCW)

Policy Revision 2 (September 2002)

PCW Revision June 26, 2007

TCEQ

DATES

Assigned 20-Aug-2007

PCW 24-Aug-2007

Screening 22-Aug-2007

EPA Due 13-May-2008

RESPONDENT/FACILITY INFORMATION

Respondent TOTAL PETROCHEMICALS USA, INC.

Reg. Ent. Ref. No. RN100909373

Facility/Site Region 12-Houston

Major/Minor Source Major

CASE INFORMATION

Enf./Case ID No. 34486

Docket No. 2007-1367-AIR-E

Media Program(s) Air

Multi-Media

Admin. Penalty \$ Limit Minimum \$0 Maximum \$10,000

No. of Violations 1

Order Type 1660

Enf. Coordinator Rebecca Johnson

EC's Team 5

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1 \$5,000

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History

66% Enhancement

Subtotals 2, 3, & 7 \$3,300

Notes

Penalty enhancement due to three Notices of Violation issued for unrelated violations and three Agreed Orders containing a denial of liability.

Culpability

No

0% Enhancement

Subtotal 4 \$0

Notes

The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply

25% Reduction

Subtotal 5 \$1,250

Before NOV

NOV to EDPRP/Settlement Offer

Extraordinary

Ordinary

N/A

X

(mark with x)

Notes

The Respondent completed all corrective actions on July 9, 2007.

0% Enhancement*

Subtotal 6 \$0

Total EB Amounts

\$112

Approx. Cost of Compliance

\$11,000

*Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal \$7,050

OTHER FACTORS AS JUSTICE MAY REQUIRE

Reduces or enhances the Final Subtotal by the indicated percentage. (Enter number only; e.g. -30 for -30%.)

Adjustment \$0

Notes

Final Penalty Amount \$7,050

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty \$7,050

DEFERRAL

20%

Reduction

Adjustment -\$1,410

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes

Deferral offered for expedited settlement.

PAYABLE PENALTY

\$5,640

Screening Date 22-Aug-2007

Docket No. 2007-1367-AIR-E

PCW

Respondent TOTAL PETROCHEMICALS USA, INC.

Policy Revision 2 (September 2002)

Case ID No. 34486

PCW Revision June 26, 2007

Reg. Ent. Reference No. RN100909373

Media [Statute] Air

Enf. Coordinator Rebecca Johnson

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	3	6%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	3	60%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgements or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 66%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

Penalty enhancement due to three Notices of Violation issued for unrelated violations and three Agreed Orders containing a denial of liability.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 66%

Screening Date 22-Aug-2007 Respondent TOTAL PETROCHEMICALS USA, INC. Case ID No. 34486 Reg. Ent. Reference No. RN100909373 Media [Statute] Air Enf. Coordinator Rebecca Johnson Violation Number <input type="text" value="1"/>	Docket No. 2007-1367-AIR-E <div style="text-align: right;"> PCW <small>Policy Revision 2 (September 2002) PCW Revision June 26, 2007</small> </div>																	
Rule Cite(s) Air Permit No. 5264, Special Condition No. 1, 30 Tex. Admin. Code § 116.115(c), and Tex. Health & Safety Code § 382.085(b)																		
Violation Description Failed to prevent unauthorized emissions during a May 17, 2007 emissions event. Specifically, during the emissions event 5,748.12 pounds of unauthorized volatile organic compound emissions were released from the Bay 2 Flare over a period of five hours and 54 minutes. Since the emissions were avoidable, the demonstrations in 30 Tex. Admin. Code § 101.222 necessary to present an affirmative defense were not met.																		
Base Penalty <input type="text" value="\$10,000"/>																		
>> Environmental, Property and Human Health Matrix																		
OR	<table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="width: 10%;"></th> <th style="width: 20%;">Release</th> <th style="width: 20%;">Major</th> <th style="width: 20%;">Moderate</th> <th style="width: 20%;">Minor</th> <th style="width: 10%;"></th> </tr> </thead> <tbody> <tr> <td>Actual</td> <td></td> <td></td> <td style="text-align: center;">x</td> <td></td> <td rowspan="2" style="vertical-align: middle;"> Percent <input type="text" value="50%"/> </td> </tr> <tr> <td>Potential</td> <td></td> <td></td> <td></td> <td></td> </tr> </tbody> </table>		Release	Major	Moderate	Minor		Actual			x		Percent <input type="text" value="50%"/>	Potential				
	Release	Major	Moderate	Minor														
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Potential																		
>> Programmatic Matrix																		
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	Falsification	Major	Moderate	Minor														
					Percent <input type="text" value="0%"/>													
Matrix Notes	Human health and the environment have been exposed to a significant amount of pollutants which did not exceed levels that are protective of human health or environmental receptors as a result of the violation.																	
Adjustment <input type="text" value="\$5,000"/>																		
<input type="text" value="\$5,000"/>																		
Violation Events																		
<table style="width: 100%;"> <tr> <td style="width: 40%;">Number of Violation Events <input type="text" value="1"/></td> <td style="width: 20%; text-align: center;"><input type="text" value="1"/></td> <td style="width: 40%;">Number of violation days</td> </tr> </table> <div style="display: flex; align-items: flex-start;"> <div style="width: 20%; font-size: small;"> mark only one with an x </div> <table border="1" style="width: 60%; border-collapse: collapse;"> <tr><td>daily</td><td></td></tr> <tr><td>monthly</td><td style="text-align: center;">x</td></tr> <tr><td>quarterly</td><td></td></tr> <tr><td>semiannual</td><td></td></tr> <tr><td>annual</td><td></td></tr> <tr><td>single event</td><td></td></tr> </table> <div style="width: 20%; text-align: right; padding-right: 10px;"> Violation Base Penalty <input type="text" value="\$5,000"/> </div> </div> <div style="border: 1px solid black; padding: 10px; text-align: center; margin-top: 10px;"> One monthly event is recommended. </div>		Number of Violation Events <input type="text" value="1"/>	<input type="text" value="1"/>	Number of violation days	daily		monthly	x	quarterly		semiannual		annual		single event			
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daily																		
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quarterly																		
semiannual																		
annual																		
single event																		
Economic Benefit (EB) for this violation																		
<table style="width: 100%;"> <tr> <td style="width: 50%;">Estimated EB Amount <input type="text" value="\$112"/></td> <td style="width: 50%; text-align: right;"> Statutory Limit Test Violation Final Penalty Total <input type="text" value="\$7,050"/> </td> </tr> <tr> <td colspan="2" style="text-align: right; padding-top: 10px;"> This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$7,050"/> </td> </tr> </table>		Estimated EB Amount <input type="text" value="\$112"/>	Statutory Limit Test Violation Final Penalty Total <input type="text" value="\$7,050"/>	This violation Final Assessed Penalty (adjusted for limits) <input type="text" value="\$7,050"/>														
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Economic Benefit Worksheet**Respondent** TOTAL PETROCHEMICALS USA, INC.**Case ID No.** 34486**Reg. Ent. Reference No.** RN100909373**Media** Air**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost No commas or \$	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
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Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)	\$11,000	17-May-2007	9-Jul-2007	0.1	\$5	\$106	\$112
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to update procedures and install electro-mechanical relays to prevent the recurrence of emissions events caused by trips in the relay system. Date required based on the date of the emissions event. Final date based on the date the corrective actions were completed.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$11,000

TOTAL

\$112

Compliance History

Customer/Respondent/Owner-Operator: CN600582399 Total Petrochemicals USA, Inc. Classification: AVERAGE Rating: 3.04
 Regulated Entity: RN100909373 TOTAL PETROCHEMICALS BAYPORT Classification: AVERAGE Site Rating: 4.54

ID Number(s):

AIR NEW SOURCE PERMITS	PERMIT	5264
AIR NEW SOURCE PERMITS	PERMIT	30132
AIR NEW SOURCE PERMITS	PERMIT	33398
AIR NEW SOURCE PERMITS	PERMIT	36591
AIR NEW SOURCE PERMITS	PERMIT	39637
AIR NEW SOURCE PERMITS	PERMIT	48263
AIR NEW SOURCE PERMITS	ACCOUNT NUMBER	HG4662F
AIR NEW SOURCE PERMITS	PERMIT	49927
AIR NEW SOURCE PERMITS	PERMIT	52309
AIR NEW SOURCE PERMITS	AFS NUM	4820101394
AIR NEW SOURCE PERMITS	REGISTRATION	55500
AIR NEW SOURCE PERMITS	REGISTRATION	55499
AIR NEW SOURCE PERMITS	PERMIT	52549
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	EPA ID	TXD988079091
INDUSTRIAL AND HAZARDOUS WASTE GENERATION	SOLID WASTE REGISTRATION # (SWR)	23446
STORMWATER	PERMIT	TXR05M624
AIR OPERATING PERMITS	ACCOUNT NUMBER	HG4662F
AIR OPERATING PERMITS	PERMIT	1447

Location: 12212 PORT DR, PASADENA, TX, 77507

Rating Date: 9/1/2006 Repeat Violator: NO

TCEQ Region: REGION 12 - HOUSTON

Date Compliance History Prepared: August 22, 2007

Agency Decision Requiring Compliance History: Enforcement

Compliance Period: August 20, 2002 to August 20, 2007

TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History

Name: Rebecca Johnson Phone: (713) 422-8931

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.

Effective Date: 08/07/2003

ADMINORDER 2002-1050-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

Rqmt Prov: SC11 PERMIT

Description: Failure to conduct annual testing.

Classification: Moderate

Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)

30 TAC Chapter 116, SubChapter B 116.115(c)

40 CFR Part 60, Subpart DDD 60.562-1(a)(1)(i)(A)

Rqmt Prov: SC3 PERMIT

Description: Failure to conduct testing.

Effective Date: 05/09/2005

ADMINORDER 2004-1080-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)

5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: Special Condition 1 PERMIT

Description: Failed to comply with the emission limits of 11.68 pounds per hour (lbs/hr) of volatile organic compounds (VOCs), 2.04 lb/hr of nitrogen oxides, and 17.49 lb/hr of carbon monoxide for emission point

number (EPN) 209.

Effective Date: 07/22/2006

ADMINORDER 2005-1949-AIR-E

Classification: Moderate

Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
5C THC Chapter 382, SubChapter A 382.085(b)

Rqmt Prov: TCEQ Permit #5264, SC #1 PERMIT

Description: Failed to prevent unauthorized emissions of 3,110.00 pounds ("lbs") of Chlorodifluoromethane at the Bay 1 Unit, Facility ID No. PROB1MATRE, emission point number ("EPN") POLYFUG during an emissions event that occurred on June 22, 2005 and lasted 15 minutes.

B. Any criminal convictions of the state of Texas and the federal government.

N/A

C. Chronic excessive emissions events.

N/A

D. The approval dates of investigations. (CCEDS Inv. Track. No.)

1	01/09/2003	(19089)
2	01/24/2003	(20359)
3	05/02/2003	(31523)
4	05/28/2003	(10808)
5	07/10/2003	(119436)
6	08/06/2003	(148713)
7	07/07/2004	(258996)
8	07/09/2004	(280458)
9	07/09/2004	(280486)
10	07/30/2004	(284658)
11	07/30/2004	(285952)
12	07/30/2004	(282805)
13	07/30/2004	(282902)
14	07/30/2004	(283084)
15	07/30/2004	(281607)
16	07/30/2004	(283664)
17	08/06/2004	(287312)
18	08/11/2004	(289249)
19	08/12/2004	(289612)
20	08/17/2004	(290044)
21	09/01/2004	(291932)
22	09/03/2004	(290838)
23	09/08/2004	(289213)
24	09/09/2004	(291529)
25	12/17/2004	(343585)
26	01/07/2005	(341431)
27	01/24/2005	(333976)
28	07/27/2005	(401940)
29	07/27/2005	(401536)
30	07/28/2005	(402394)
31	08/08/2005	(404063)
32	08/10/2005	(404001)
33	08/12/2005	(404813)
34	08/16/2005	(405286)
35	08/18/2005	(405758)
36	08/18/2005	(406039)
37	08/29/2005	(418320)
38	08/29/2005	(418396)
39	09/06/2005	(418725)
40	10/04/2005	(433264)
41	11/09/2005	(433225)
42	01/03/2006	(438876)
43	05/26/2006	(479923)
44	05/30/2006	(480050)
45	08/21/2006	(288723)

46 02/27/2007 (512475)
 47 05/07/2007 (514437)
 48 07/09/2007 (510587)
 49 07/25/2007 (565631)
 50 08/17/2007 (571405)

E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)

Date: 05/06/2003 (31523)
Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
Rqmt Prov: PA 5264 SC 13B
Description: Failure to conduct pellet sampling for VOC emissions at the location required by TCEQ Air Permit No. 5264, Special Condition 13 B/ 30 Tex. Admin. Code § 116.115(c)].

Date: 05/29/2003 (10808)
Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 101, SubChapter A 101.20(1)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.487(c)(2)(vii)
Rqmt Prov: PERMIT 5264, SC 3
Description: Failure to include facts why components in the Bay 1 and Bay 2 units are not repaired within 15 in the 2000 semiannual reports.

Date: 02/28/2007 (512475)
Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 115, SubChapter D 115.352(4)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.482-6(a)(1)
 5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: PERMIT No. 5264, Special Condition 4E
 OP No. O-01447, Special Condition 11A
 OP No. O-01447, Special Condition 1A
Description: failure to equip open ended lines or valves with a cap, plug, blind flange or second valve

Self Report? NO **Classification:** Moderate
Citation: 30 TAC Chapter 115, SubChapter H 115.722(d)(1)
 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT A 60.18(c)(3)(ii)
 5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: PERMIT No. 5264, Special Condition 3
 OP No. O-01447, Special Condition 11A
Description: failure to maintain the heating value to the flare at a minimum of 300 Btu/SCF.

Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 116, SubChapter B 116.115(c)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 40 CFR Chapter 60, SubChapter C, PT 60, SubPT VV 60.485(b)(1)
 5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: PERMIT No. 5264, Special Condition 4F
 OP No. O-01447, Special Condition 11A
Description: failure to maintain the calibration of the instrument used in leak detection monitoring within 10% of accuracy drift.

Self Report? NO **Classification:** Minor
Citation: 30 TAC Chapter 115, SubChapter H 115.781(g)(1)
 30 TAC Chapter 122, SubChapter B 122.143(4)
 5C THC Chapter 382, SubChapter D 382.085(b)
Rqmt Prov: OP No. O-01447, Special Condition 1H(iv)
Description: failure to use dataloggers and/or electronic data collection devices during the fugitive emission monitoring and failure to transfer the electronic data to an electronic or hardcopy database within seven days of the monitoring.

F. Environmental audits.

N/A

G. Type of environmental management systems (EMSs).

N/A

H. Voluntary on-site compliance assessment dates.

N/A

I. Participation in a voluntary pollution reduction program.

N/A

J. Early compliance.

N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
TOTAL PETROCHEMICALS USA,
INC.
RN100909373**

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§
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§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2007-1367-AIR-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding TOTAL PETROCHEMICALS USA, INC. ("TOTAL") under the authority of TEX. HEALTH & SAFETY CODE ch. 382 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and TOTAL appear before the Commission and together stipulate that:

1. TOTAL owns and operates a chemical manufacturing plant at 12212 Port Drive in Pasadena, Harris County, Texas (the "Plant").
2. The Plant consists of one or more sources as defined in TEX. HEALTH & SAFETY CODE § 382.003(12).
3. The Commission and TOTAL agree that the Commission has jurisdiction to enter this Agreed Order, and that TOTAL is subject to the Commission's jurisdiction.
4. TOTAL received notice of the violations alleged in Section II ("Allegations") on or about August 22, 2007.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by TOTAL of any violation alleged in Section II ("Allegations"), nor of any statute or rule.
6. An administrative penalty in the amount of Seven Thousand Fifty Dollars (\$7,050) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). TOTAL has paid Two Thousand Eight Hundred Twenty Dollars (\$2,820) of the administrative penalty and

One Thousand Four Hundred Ten Dollars (\$1,410) is deferred contingent upon TOTAL's timely and satisfactory compliance with all the terms of this Agreed Order. The deferred amount will be waived upon full compliance with the terms of this Agreed Order. If TOTAL fails to timely and satisfactorily comply with all requirements of this Agreed Order, the Executive Director may require TOTAL to pay all or part of the deferred penalty. Two Thousand Eight Hundred Twenty Dollars (\$2,820) shall be conditionally offset by TOTAL's completion of a Supplemental Environmental Projected ("SEP").

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and TOTAL have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that TOTAL has implemented the following corrective measures at the Plant:
 - a. Completed reviews and updates of procedures on July 3, 2007 to ensure that proper operations practices are in place to minimize human interaction with the relay housing; and
 - b. Completed installation of electro-mechanical relays less sensitive to mechanical vibration on July 9, 2007.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that TOTAL has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Plant, TOTAL is alleged to have failed to prevent unauthorized emissions during a May 17, 2007 emissions event, in violation of Air Permit No. 5264, Special Condition No. 1, 30 TEX. ADMIN. CODE § 116.115(c), and TEX. HEALTH & SAFETY CODE § 382.085(b), as documented during an investigation conducted on August 7, 2007. Specifically, during the emissions event 5,748.12 pounds of unauthorized volatile organic compound emissions were released from the Bay 2 Flare over a period of five hours and 54 minutes. Since the emissions were avoidable, the demonstrations in 30 TEX. ADMIN. CODE § 101.222 necessary to present an affirmative defense were not met.

III. DENIALS

TOTAL generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that TOTAL pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and TOTAL's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations, which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: TOTAL PETROCHEMICALS USA, INC., Docket No. 2007-1367-AIR-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088
2. TOTAL shall implement and complete a SEP in accordance with TEX. WATER CODE § 7.067. As set forth in Section I, Paragraph 6 above, Two Thousand Eight Hundred Twenty Dollars (\$2,820) of the assessed administrative penalty shall be offset with the condition that TOTAL implement the SEP defined in Attachment A, incorporated herein by reference. TOTAL's obligation to pay the conditionally offset portion of the administrative penalty assessed shall be discharged upon final completion of all provisions of the SEP agreement.
3. The provisions of this Agreed Order shall apply to and be binding upon TOTAL. TOTAL is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Plant operations referenced in this Agreed Order.
4. If TOTAL fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, TOTAL's failure to comply is not a violation of this Agreed Order. TOTAL shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. TOTAL shall notify the Executive Director within seven days after TOTAL becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.

5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by TOTAL shall be made in writing to the Executive Director. Extensions are not effective until TOTAL receives written approval from the Executive Director
6. This Agreed Order, issued by the Commission, shall not be admissible against TOTAL in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to TOTAL, or three days after the date on which the Commission mails notice of the Order to TOTAL, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission

John Sadlier

For the Executive Director

2/6/2008

Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.

Stan Beisert

Signature

11/16/07

Date

STAN BEISERT

Name (Printed or typed)
Authorized Representative of
TOTAL PETROCHEMICALS USA, INC.

PLANT MANAGER

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

Attachment A
Docket Number: 2007-1367-AIR-E

SUPPLEMENTAL ENVIRONMENTAL PROJECT

Respondent: TOTAL PETROCHEMICALS USA, INC.

Payable Penalty Amount: Five Thousand Six Hundred Forty Dollars (\$5,640)

SEP Amount: Two Thousand Eight Hundred Twenty Dollars (\$2,820)

Type of SEP: Pre-approved

Third-Party Recipient: Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program

Location of SEP: Harris County

The Texas Commission on Environmental Quality ("TCEQ") agrees to offset a portion of the administrative Penalty Amount assessed in this Agreed Order for the Respondent to contribute to a Supplemental Environmental Project ("SEP"). The offset is equal to the SEP Amount set forth above and is conditioned upon completion of the project in accordance with the terms of this Attachment A.

1. Project Description

A. Project

The Respondent will contribute to Houston-Galveston AERCO's Clean Cities/Clean Vehicles Program in Harris County. The contribution will be used in accordance with the *Supplemental Environmental Project Agreement between the Houston-Galveston AERCO and the Texas Commission on Environmental Quality*.

SEP monies will be used to aid local school districts and area transit agencies in reaching local match requirements mandated by the Federal Highway Administration's ("FHWA") Congestion Mitigation/Air Quality funding program. SEP monies will be disbursed to school districts and transit agencies in need of funding assistance in the Houston-Galveston non-attainment area. Those SEP monies will be used exclusively by the school districts and transit agencies as supplements to meet the local match requirements of the EPA. SEP monies will be used to pay for the cost of replacing older diesel buses with alternative fueled or clean diesel buses. The old buses will be permanently retired and only sold for scrap. The schools and transit agencies will also use the SEP monies to retrofit more buses to reduce emissions. Houston-Galveston AERCO will send the TCEQ verification in the form of paid invoices and other documentation to show that the retrofits were completed. Retrofit technologies include particulate matter traps, diesel particulate matter filters, NOx reduction catalyst technology in combination with diesel particulate filters, and other emission control technologies that are developed and approved by EPA or the California Air Resources Board.

The Respondent certifies that there is no prior commitment to do this project and that it is being performed solely in an effort to settle this enforcement action.

B. Environmental Benefit

This SEP will provide a discernible environmental benefit by reducing particulate emissions on buses by more than 90% below today's level and reducing hydrocarbons below measurement capability.

C. Minimum Expenditure

The Respondent shall contribute at least the SEP Amount to the Third-Party Recipient and comply with all other provisions of this SEP.

2. Performance Schedule

Within 30 days after the effective date of this Agreed Order, the Respondent must contribute the SEP Amount to the Third-Party Recipient. The Respondent shall mail the contribution, with a copy of the Agreed Order, to:

Houston-Galveston Area Council
Houston-Galveston AERCO
P.O. Box 22777
Houston, Texas 77227-2777

3. Records and Reporting

Concurrent with the payment of the SEP Amount, the Respondent shall provide the TCEQ SEP Coordinator with a copy of the check and transmittal letter indicating full payment of the SEP Amount to the Third-Party Recipient. The Respondent shall mail a copy of the check and transmittal letter to:

Enforcement Division
Attention: SEP Coordinator, MC 219
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

4. Failure to Fully Perform

If the Respondent does not perform its obligations under this SEP in any way, including full payment of the SEP Amount and submittal of the required reporting described in Section 3 above, the Executive Director may require immediate payment of all or part of the SEP Amount.

The check for any amount due shall be made out to "Texas Commission on Environmental Quality" and mailed to:

Texas Commission on Environmental Quality
Financial Administration Division, Revenues
Attention: Cashier, MC 214
P.O. Box 13088
Austin, Texas 78711-3088

TOTAL PETROCHEMICALS USA, INC.
Agreed Order – Attachment A

The Respondent shall also mail a copy of the check to the TCEQ SEP Coordinator at the address in Section 3 above.

5. Publicity

Any public statements concerning this SEP made by or on behalf of the Respondent must include a clear statement that the project was performed as part of the settlement of an enforcement action brought by the TCEQ. Such statements include advertising, public relations, and press releases.

6. Clean Texas Program

The Respondent shall not include this SEP in any application made to TCEQ under the "Clean Texas" (or any successor) program(s). Similarly, the Respondent may not seek recognition for this contribution in any other state or federal regulatory program.

7. Other SEPs by TCEQ or Other Agencies

The SEP identified in this Agreed Order has not been, and shall not be, included as an SEP for the Respondent under any other Agreed Order negotiated with the TCEQ or any other agency of the state or federal government.

